

REMARKS

The Official Action mailed April 17, 2009, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statements filed on September 22, 2006; and February 15, 2007.

Claims 8-11 were pending in the present application prior to the above amendment. Claim 10 has been canceled without prejudice or disclaimer, and claims 8, 9 and 11 have been amended to better recite the features of the present invention. Accordingly, claims 8, 9 and 11 are now pending in the present application, all of which are independent. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

Paragraph 2 of the Official Action rejects claims 8-11 as obvious based on the combination of U.S. Publication No. 2003/0027554 to Haumont and U.S. Publication No. 2002/0010807 to Multer. The Applicant respectfully submits that a *prima facie* case of obviousness cannot be maintained against the independent claims of the present application, as amended.

As stated in MPEP §§ 2142-2144.04, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some reason, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some reason to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the

combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The prior art, either alone or in combination, does not teach or suggest all the features of the independent claims, as amended. Specifically, claims 8, 9 and 11 have been amended to recite "the plurality of terminal devices functioning to provide services in respective predetermined ranges" and "means for instructing to the terminal device service stop instruction data which instructs the terminal device to stop providing the service, if those two pieces of service class data do not coincide with each other." These features are supported in the present specification, for example, by step S12, Figure 4, and the associated descriptions in the present specification.

The present invention relates to a service class control system comprising a plurality of wireless terminal devices (for providing services in respective predetermined ranges) and a service class control server (connected to the plurality of wireless terminal devices for communication), and it is characterized in having the function that the service control server monitors service class data (designating a service range) stored in each of the wireless terminal devices to present the service class data stored in the wireless terminal device from being unduly rewritten by any non-entitled person. Thus, each of the wireless terminal devices of the present invention's system is a subject which provides a specific service, i.e., a service provider.

In contrast, in Haumont's communication system, the mobile station (MS) (paragraph [0022]), which allegedly corresponds to the "wireless terminal device" in the present invention, is a recipient of service, not a service provider. Thus, the present invention and Haumont's invention are fundamentally different from each other in terms of structure and operation of the system. MPEP § 2141.01(a) states the following:

The examiner must determine what is "analogous prior art" for the purpose of analyzing the obviousness of the subject matter at issue. "In order to

rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also In re Deminski, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); In re Clay, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992).

Haumont is not in the field of the Applicant's endeavor, is not reasonably pertinent to the particular problem with which the inventor is concerned, and would not have logically commended itself to an inventor's attention in considering the problem.

Moreover, Haumont neither teaches nor suggests the processes of whether two pieces of service class data coincide with each other and transmitting by the server the service stop instruction data to the wireless terminal device, if the two pieces service class data do not coincide with each other.


The Official Action concedes that "Haumont does not teach in detail that it is decided whether these two pieces of service class data coincide with each other" and relies on Multer to allegedly teach this feature (page 6, id.). However, Multer does not cure the above-referenced deficiencies in Haumont. Specifically, Haumont and Multer, either alone or in combination, do not teach or suggest that Haumont's mobile station (MS), which is a recipient of service, should instead be a service provider. Also, Haumont and Multer, either alone or in combination, do not teach or suggest "the plurality of terminal devices functioning to provide services in respective predetermined ranges" and "means for instructing to the terminal device service stop instruction data which instructs the terminal device to stop providing the service, if those two pieces of service class data do not coincide with each other."

Since Haumont and Multer do not teach or suggest all the claim limitations, a *prima facie* case of obviousness cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are in order and respectfully requested.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized to charge fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(a), 1.20(b), 1.20(c), and 1.20(d) (except the Issue Fee) which may be required now or hereafter, or credit any overpayment to Deposit Account No. 50-2280.

Respectfully submitted,



Eric J. Robinson
Reg. No. 38,285

Robinson Intellectual Property Law Office, P.C.
PMB 955
21010 Southbank Street
Potomac Falls, Virginia 20165
(571) 434-6789